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**\*E-FILED - 9/26/08\***

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )

No. CR 08-00361 RMW

**STIPULATION AND ☐ ORDER CONTINUING STATUS  
CONFERENCE FROM SEPTEMBER  
29, 2008 TO OCTOBER 27, 2008 AND  
EXCLUDING TIME FROM  
SEPTEMBER 29, 2008 THROUGH  
OCTOBER 27, 2008, FROM  
CALCULATIONS UNDER THE  
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the status conference from September 29, 2008 to October 27, 2008 and excluding time from September 29, 2008 through October 27, 2008. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from September 29, 2008 through October 27, 2008 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, motions are appropriate. Defense counsel has also requested additional time to review and analyze the images of child pornography again. The

1 government has produced discovery in this case and the defense counsel and defendant require  
2 additional time to review and analyze this discovery. A status conference will not being  
3 meaningful until after defendant and defense counsel has had an opportunity to complete their  
4 investigation. For effective preparation of defense counsel, the parties agree that the status  
5 conference currently scheduled for September 29, 2008 and should be continued to October 27,  
6 2008 at 9 a.m.

7 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
8 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
9 effective preparation of the defense; believes the exclusion is in the defendant's best interests;  
10 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for  
11 the period from September 29, 2008 through October 27, 2008.

12 Given these circumstances, the parties believe, and request that the Court find, that the  
13 ends of justice are served by excluding from calculations the period from September 29, 2008  
14 through October 27, 2008 outweigh the best interests of the public and the defendant in a speedy  
15 trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

16 IT IS SO STIPULATED.

17 DATED: 9/25/08

/s/ Richard Pointer  
RICHARD POINTER

19  
20 DATED: 9/25/08

/s/ Hanley Chew  
HANLEY CHEW  
Assistant United States Attorney

22 **[] ORDER**

23 Having considered the stipulation of the parties, the Court finds that: (1) the defendant  
24 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18  
25 U.S.C. § 3161, from September 29, 2008 through October 27, 2008, based upon the need for the  
26 defense counsel to investigate further the facts of the present case, review the discovery that the  
27 government has already provided and evaluate further possible defenses and motions available to  
28

1 the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and  
2 is in the defendant's best interests; and (3) the ends of justice are served by excluding from  
3 Speedy Trial calculations the period from September 29, 2008 through October 27, 2008.

4 Accordingly, the Court further orders that (1) the status conference set for September 29,  
5 2008 is vacated and that the next appearance date before this Court is scheduled for October 27,  
6 2008 at 9:00 a.m.; and (2) the time from September 29, 2008 through October 27, 2008 is  
7 excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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9 IT IS SO ORDERED.

10 DATED: 9/26/08  
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12 THE HONORABLE RONALD M. WHYTE  
13 United States District Court Judge  
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